

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

CR&R INCORPORATED  
Employer

and

Cases 21-RC-262469  
21-RC-262474

PACKAGE & GENERAL UTILITY  
DRIVERS, TEAMSTERS LOCAL  
UNION NO. 396  
Petitioner

DECISION ON REVIEW AND ORDER

On October 9, 2020, the Board granted, in part, the Employer's Request for Review of the Regional Director's Decision and Direction of Election.<sup>1</sup>

On November 9, 2020, the Board issued its decision in *Aspirus Keweenaw*, 370 NLRB No. 45 (2020), which sets forth the guidelines and parameters applicable to determining the propriety of a mail-ballot election under the current circumstances of the Covid-19 pandemic. On review, we affirm the Regional Director's direction of a mail-ballot election.

In affirming the Regional Director's mail-ballot determination, we note that the direction of a mail-ballot election was consistent with the concerns articulated in *Aspirus Keweenaw*. Moreover, the election has been held, and setting it aside would result in waste of resources and delay and would be a disservice to the employees who cast their ballots in good faith. Affirming the Regional Director is also warranted because the current positivity rate would support a mail-ballot election under *Aspirus Keweenaw* if this election were set aside and a new determination were to be made now.<sup>2</sup> Under all of the foregoing circumstances, we find no reason to overturn the Regional Director's determination.<sup>3</sup>

ORDER

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<sup>1</sup> The only issue on which review was granted was whether the Regional Director's direction of a mail-ballot election constituted an abuse of discretion.

<sup>2</sup> As of the date of this Order, the 14-day testing positivity rate in Riverside County has remained at a sustained rate of over 8.0%. See Blueprint for a Safer Economy, <https://www.covid19.ca.gov/safer-economy/#reopening-data.com>, "Riverside County" (last visited Nov. 24, 2020).

<sup>3</sup> Member McFerran agrees to affirm the Regional Director's Decision and Direction of Election for the reasons given in her separate opinion in *Aspirus*. She further agrees, however, that setting aside the election at this point would be inefficient and unfair to the unit employees, and that, even under the majority opinion in *Aspirus*, the Regional Director's decision should be affirmed based on the recent positivity rate statistics set out above.

The Regional Director's Decision and Direction of Election is affirmed. This proceeding is remanded to the Regional Director for appropriate action consistent with this Decision and Order.

JOHN F. RING, CHAIRMAN

WILLIAM J. EMANUEL, MEMBER

LAUREN McFERRAN, MEMBER

Dated, Washington, D.C., November 24, 2020.